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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:

Yamaguchi et al.

Application No. 09/783,549

Filed: February 15, 2001

For: VIDEO ENCODING AND DECODING
APPARATUS

ON PETITION

This is a decision on the request filed July 12, 2002 to withdraw the holding of abandonment. The request is being treated as a petition under MPEP 711.03(c)(II) and pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The Notice of Abandonment was mailed June 11, 2002 for failure to timely submit the issue fee due May 7, 2002.

Petitioner alleges that no Notice of Allowance and Issue Fee Due was received.

Based on M.P.E.P. 711.03(c) [See also Notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not received*, 1156 O.G. 53 (November 16, 1993)], in absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include:

(a) a statement from the practitioner stating that the Office communication was not received by the practitioner;

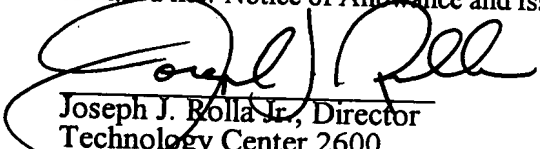
(b) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(c) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has complied with requirements (a-c) above. Accordingly, the petition is GRANTED.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The Notice of Allowance is hereby vacated. The application file will be forwarded to the TC 2600 Technical Support Staff to mail a new Notice of Allowance and Issue Fee Due and to restart the period for response.


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